

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: May 19, 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TONI GERACE,
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Plaintiff,
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-v-
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CAROLYN W. COLVIN, Acting Commissioner of
the Social Security Administration,
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:
:

Defendant.
:
X

16-cv-3644 (KBF)

MEMORANDUM
OPINION & ORDER

KATHERINE B. FORREST, District Judge:

All actions in this Court are governed by the Federal Rules of Civil Procedure. Rule 8(a) requires that pleadings contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). For particularly deficient pleadings, a court may raise such issues sua sponte.

Salahuddin v. Cuomo, 861 F.2d 40, 42 (2d Cir. 1988). Plaintiff has not satisfied the requirements of Fed. R. Civ. P. 8(a)(2) as explained in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) and Ashcroft v. Iqbal, 556 U.S. 662 (2009).

“While Twombly does not require heightened fact pleading of specifics, it does require enough facts to “nudge plaintiffs’ claims across the line from conceivable to plausible.” In re Elevator Antitrust Litig., 502 F.3d 47, 50 (2d Cir. 2007) (alternations omitted). In the instant Complaint, plaintiff makes “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” Iqbal, 556 U.S. at 678. Plaintiff has not given defendant “fair notice of

what the . . . claim is and the grounds upon which it rests.” Twombly, 550 U.S. at 555. Plaintiff’s statements that “She provided proof of . . . ongoing disability and the Administrative Law Judge erred in that his decision is not supported by substantial evidence in the record as a whole” are insufficient to meet the “plausibility” standard required by Iqbal and Twombly. (Compl. ¶ 4.)

Plaintiff is directed to amend her Complaint to include a brief statement of facts establishing the reasons why this Court should find that the defendant’s decision was wrong. Plaintiff shall file an amendment within **thirty days** of the date of this order. Failure to amend will result in dismissal.

SO ORDERED.

Dated: New York, New York
May 19, 2016

A handwritten signature in black ink, appearing to read "K. B. Forrest", is written above a horizontal line.

KATHERINE B. FORREST
United States District Judge